

chamber within the inner barrel member forming a passage for cooling air from the compressor, the cooling air flowing from the chamber and being mixed with combustion gases upstream of the turbine;

(e) a brush seal for restricting air passage into the chamber from the compressor, the brush seal comprising:

(i) a ring-shaped holder;

(ii) a multiplicity of bristle members extending radially inwardly from the holder toward the land region of the rotor, outer extremities of the bristle members being rigidly retained relative to the holder; and

(iii) means for fastening the holder to the inner barrel member, wherein, when the power plant is inactive, the bristles have an ambient temperature clearance of not less than 0.015 percent of the diameter D from the land region of the rotor.

#### COMMENTS

The rejection of applicants claims 32 through 40 under 35 USC 135 (b) as not being made prior to one (1) year from the date on which U.S. Patent No. 5,630,590, was granted is respectfully traversed and reconsideration is respectfully requested.

U.S. Patent Application 09/288,943 is a continuation in part of U.S. Serial No. 08/892,738 filed on July 15, 1997 as a continuation of U.S. Serial No. 08/656,564 filed May 31, 1996.

Claim 1 as added above is Claim 1 as originally filed in U.S. Serial No. 08/656,564. This claim along with the other claims in U.S. Serial No. 08/656,564 were indicated allowable in a Notice of Allowance and Issue Fee Due mailed April 15, 1997. Accordingly this claim must be

considered to be allowable as to form. Subsequently, U.S. Serial No. 08/656,564 was abandoned and re-filed as U.S. Serial No. 08/892,738. Claim 1 or a claim claiming substantially the same invention as Claim 1 was present in this case through out its prosecution. An abbreviated copy of the prosecution history is presented below and attached,

**Appendix A** - Original Claims filed in U.S. Serial No. 08/656,564 May 31, 1996.

**Appendix B** - The Notice of Allowance issued in U.S. Serial No. 08/656,564 indicating all claims allowable.

**Appendix C** - A Preliminary Amendment filed in U.S. Serial No. 08/892,738.

**Appendix D** - A second Preliminary Amendment filed in U.S. Serial No. 08/892,738.

**Appendix E** - A third Preliminary Amendment filed in U.S. Serial No. 08/892,738.

**Appendix F** - An Office Action issued June 4, 1998 in U.S. Serial No. 08/892,738.

**Appendix G** - An Responsive Amendment to the June 4, 1998 Office Action filed January 11, 1999.

**Appendix H** - An Office Action in U.S. Serial No. 08/892,738 issued January 21, 1999 and February 16, 1999.

**Appendix I** - A Responsive Amendment to the Office Action issued January 21, 1999 and February 16, 1999 which was filed March 30, 1999.

**Appendix J** - A Notice of Allowance of U.S. Serial No. 08/892,738.

It will be noted that throughout the entire prosecution of this case Claim 1 or a slightly amended version thereof which is substantially equivalent to Claim 1 has been present in the case until cancellation of Claim 1 in U.S. Serial No. 08/892,738. The claims cancelled in U.S. Serial No. 08/892,738 did not include the features related to the admission of cooling air in addition to that passing the brush seal into the barrel of the turbine engine. These cancelled Claims were of course included in U.S. Serial No. 09/288,943 filed April 9, 1999, a continuation of U.S. Serial No. 08/656,564, as filed. U.S. Serial No. 08/288,943 is of course, entitled to the filing date of U.S. Serial No. 08/656,564 which included Claim 1. All claims except those copied from U.S. Patent 5,630,590 were canceled in U.S. Serial No. 09/288,943 in an amendment filed April 13, 2000 under the belief, based upon telephone conversations with the Examiner that cancellation of these claims would expedite declaration of the interference since it deleted all Claims except those copied from U.S. Patent 5,630,590. To show support for this proposed count as proposed in applicants' earlier filed Amendment Applicant attached a Claim chart showing supporting disclosure material for the proposed count by reference to Applicant's issued Patent 5,961,279. This amendment was made with the understanding that this would simplify the issues related to form with respect to Claims 21 through 31 and would result in early declaration of the interference.

As discussed with Examiner Kwon repeatedly, Applicant's believe that the invention Claimed in U.S. Patent 5,630,590 was derived from Applicant, that applicant was the first inventor of that invention and that the now patentee in the U.S. Patent 5,630,590 is commercializing this invention extremely profitably while Applicant remains unable to obtain a determination of his rights in the Patent Office.

It is respectfully submitted that in the present application, applicant is entitled to make the claim presently added as new claim 41 and that this claim was pending before the patent office during the time that U.S. Patent 5,630,590 was pending before the Patent Office. The Patent

Office could have declared a interference between these two patents at any time during the co-pendency of U.S. Serial Number 08/654,564 filed May 31, 1996 and indicated allowable April 15, 1997 and U.S. Serial No. 08/625,427 filed March 26, 1996 (Now U.S. Patent 5,630,590) under 35 CFR 1.601(n) and 37 CFR 1.609 (MPEP 2303 last paragraph) or 37 CFR 1.605. It is believed clear that with the material supplied by applicant's earlier amendment filed in U.S. Serial No. 08/288,943 and this demonstration that a claim for substantially the same matter as claimed in U.S. Patent 5,630,590 was pending before the Patent Office prior to the expiration of the one year period after the issuance of U.S. Patent 5,630,590. If necessary applicant can prepare a claim chart showing support for the proposed count based upon Claim 1 but it is considered that it is self-evident from a review of claim 1 that applicant fully supports and has claimed since May 31, 1996 substantially the same invention as claimed in U.S. Patent 5,630,590. Since it appears that there is no doubt that this claim has been pending on behalf of applicants since May 31, 1996 in substantially the same form it appears clear that there is no reason why an interference should not be declared between application 09/288,943 and U.S. Patent 5,630,590. Applicant respectfully requests a prompt and favorable resolution in this matter.

Applicants consider an "intercomponent gap" and a gap of 0.015 percent of the diameter "D" to be of no patentable significance and substantially equivalent especially since the '590 Patent claim 1 refers to an intercomponent gap between a first and a second component and requires that the brush seal impedes the leakage of air through the intercomponent gap. The 0.015 percent gap is between the inner ends of the brush seal and the inner component. The '590 claim 1 does not define this gap. Similarly any distinction between a "refurbished gas turbine engine" and stationary gas "turbine engine" is believed to be of no significance in view of the discussion in applicant's specification at col 5 line 66 - col 6 line 8 which discusses addition of a brush seal to an existing machine (refurbished) or to a "fresh" installation.

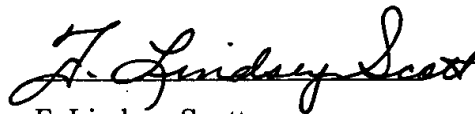
disagree

agree

Since it is believed that an interference is proper between this patent and this application it is respectfully requested that this interference be declared promptly so that applicant can establish applicant's rights with respect to this invention. Attention is respectfully directed to the last paragraph of MPEP 2307 and 37CFR 1.607 and it is noted that this application has now been pending since April 9, 1999 notwithstanding Applicant's repeated requests for prompt handling.

Since it is believed that an interference is proper between this patent and this application it is respectfully requested that this interference be declared promptly so that applicant can establish applicant's rights with respect to this invention.

Respectfully submitted,



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